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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,017	03/30/2000	HANS-JUERGEN HENKEL	2345/112	4579
26646	7590	12/17/2003		
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			EXAMINER CONTEE, JOY KIMBERLY	
			ART UNIT 2686	PAPER NUMBER 9
DATE MAILED: 12/17/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/462,017

Applicant(s)

HENKEL, HANS-JUERGEN

Examiner

Joy K Contee

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 30 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-28 is/are allowed.
- 6) ☒ Claim(s) 15 is/are rejected.
- 7) ☒ Claim(s) 16-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 & 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (Aoki), U.S. Patent No. 4,597,079, in view of Tirro et al. (Tirro), U.S. Patent No. 4,722,083.

Regarding claim 15, Aoki discloses a process for controlling a use of a satellite transmission capacity in order to achieve a substitution of out-of-order data lines in terrestrial networks such that an alternative routing via a satellite is initiated and monitored and an assignment is effected with respect to the alternative routing, the process comprising the steps of:

causing a plurality of controllers controlled by a routine and switchover logic and respectively allocated to one of a master terminal (i.e., terminal 1) and a slave terminal (i.e., terminal 2) to achieve a control that is automatic, decentralized, and local (i.e., reads on contained within the terminal 1 and 2) (col. 4, lines 52-62 and col. 8, lines 20-23); and

causing the plurality of controllers (i.e., control unit 108 and 108', see Figs. 7A and 7B) to detect a need for the alternative routing (i.e., to standby unit, terminal unit 2)

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based on an analysis of a data control signal from a data transmission device of a user (col. 4, line 3s 16-23 and col. 7, lines 63-67 and col. 8, line 20 to col. 9, line 17) ; and

using a control logic to monitor locally and automatically an occupancy state of the satellite transmission capacity (col. 6, lines 36-48); and carrying out logic-controlled alternative operations via a respective one of the plurality of controllers (col. 8, lines 20-59).

Aoki fails to explicitly disclose controllers controlled by software.

In a similar field of endeavor, Tirro provides evidence of microprocessor (i.e., controller) having a program memory (i.e., reads on software controlled) which governs the operation of the microprocessor (col. 3, lines 8-16).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Aoki to include software or program controlled controllers for the purpose of using a more modern sense of control opposed to the routine using flag registers.

***Allowable Subject Matter***



3. Claims 21-28 are allowed.
4. Claims 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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5. The following is a statement of reasons for the indication of allowable subject matter: it is not explicitly found in prior art of record the detailed circuit arrangement, for implementing a process that controls a user of a satellite transmission capacity in order to achieve a substitution of out-of-order data lines in terrestrial networks such that an alternative routing via a satellite is initiated and monitored and an assignment is effected is effected with respect to the alternative routing, the circuit arrangement comprising:

a plurality of backup terminals, each one of the backup terminals corresponding to one of a master terminal and a slave terminal and each one of the backup terminals including: an antenna, a carrier, and a satellite, wherein: each one of the backup terminals is connected to a corresponding one of a plurality of satellite modems in order to achieve an automatic switchover to free transmission satellite channels when the alternative routing of at least one of the terrestrial networks occurs, each one of the backup terminals is provided with a corresponding one of a plurality of independent, software-controlled, decentrally disposed, local and intelligent control units, each one of the control units is allocated a corresponding one of a plurality of other modems, each one of the plurality of control units is connected to a corresponding one of a plurality of routers, and each one of the plurality of routers is capable of being connected to customer devices, customer terminals, and to communication lines.

Regarding claims 16-20, it is not found in prior art the detailed limitations describing the control software of controllers in the dependent claims.

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**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nawata, U.S. Patent No. 4,947,451, discloses multiple accessing satellite communication system having standby central station.

Lee et al., U.S. Patent No. 5,430,732, discloses a satellite communication system.

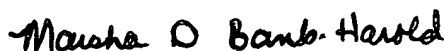
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joy K Contee whose telephone number is 703-308-0149. The examiner can normally be reached on 5:30 a.m. to 2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703-305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

  
Joy K. Contee

December 10, 2003



MARSHA D. BANKS-HAROLD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600